IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **25.06.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.15783 of 2024 and
W.M.P.Nos.17190 & 17192 of 2024

Peter Ramaswamy ... Petitioner

-vs-

The Assistant Commissioner (Circle),
Chennai South Zone - II,
Ramapuram Circle,
Chennai South Commissionerate Range – II,
Porur Division,
Chennai- 600 035. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records calling for the records in Order bearing Reference No. ZA330623249410W dated 28.06.2023 on the file of the Respondent and quash the same and further direct the Respondent to restore the GST registration no. 33AJEPP3955C2ZD of the Petitioner.

For Petitioner : Mr. I. Dinesh
for M/s. Pass Associates

For Respondent : Mr. V. Prashanth Kiran,
Government Advocate (Tax)

ORDER

The petitioner challenges an order of cancellation of GST registration dated 28.06.2023 and seeks revocation thereof.

2. The petitioner asserts that he is a stunt choreographer and was a registered person under applicable GST laws. According to the petitioner, he had engaged the services of an accountant for purposes of complying with requirements under GST laws. Therefore, he was shocked and surprised when he discovered that his GST registration was cancelled by the order impugned herein. The present writ petition arises in the said facts and circumstances.

3. Learned counsel for the petitioner submits that the petitioner had filed GST returns up to December 2022. Thereafter, he did not have any business and could not file returns. He would file the necessary GST returns

in the event of the GST registration being restored. In support of restoration of registration, learned counsel relies upon the judgment of this Court in *Suguna Cutpiece v. The Appellate Deputy Commissioner (ST)(GST) and others, W.P.Nos.25048 of 2021 batch (Suguna Cutpiece)*.

4. Mr. V. Prashanth Kiran, learned Government Advocate, accepts notice for the respondent and submits that directions along the lines of *Suguna Cutpiece* may be issued.

5. Accordingly, this writ petition is disposed of with the following directions:-

i. The petitioner is directed to file returns for the period prior to the cancellation of registration, if not filed, together with tax dues along with interest thereon and the fee fixed for belated filing of returns within a period of forty five (45) days from the date of receipt of a copy of this order.

ii. It is made clear that such payment of tax, interest, fine / fee and etc. shall not be allowed to be made or adjusted from and out of any Input Tax Credit (*ITC*) which may be lying unutilized or unclaimed in the hands of the petitioner.

iii. If any ITC has remained unutilized, it shall not be utilised until it is scrutinized and approved by an appropriate or competent officer of the Department.

iv. Only such approved ITC shall be allowed to be utilized thereafter for discharging future tax liability under the Act and Rules.

v. The petitioner shall also pay GST and file the returns for the period subsequent to the cancellation of the registration by declaring the correct value of supplies.

vi. If any ITC was earned, it shall be allowed to be utilised only after scrutinising and approving by the respondent or any other competent authority.

vii. On payment of tax, penalty and uploading of returns, the registration shall stand revived forthwith.

viii. The respondent shall take suitable steps by instructing GST Network, New Delhi to make suitable changes in the architecture of the GST Web portal to allow the petitioner to file the returns and to pay the tax / penalty / fine.

ix. The above exercise shall be carried out by the respondent within a period of thirty (30) days from the date of receipt of a copy of this order.

6. The restoration of the GST registration is subject to and conditional upon fulfilling the above conditions.

7. The Writ Petition is disposed of on the above terms. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are also closed.

25.06.2024

Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No
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To

The Assistant Commissioner (Circle),
Chennai South Zone - II,
Ramapuram Circle,
Chennai South Commissionerate Range – II,
Porur Division,
Chennai- 35.

SENTHILKUMAR RAMAMOORTHY,J

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